Jun. 8. 2010 8:22PM Rosenbaum & Silvert, P. C.

RECEIVED

JUN 1.1 2010

No. 4040

OFFICE OF PETITIONS

PTO/SB/45 (03-09)
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The Director is hereby authorized to charge \$ to cover the payment of the (eq(s) Indicated below to Deposit Account No	1. 🔀 A c	heck for the amount	of \$ for th	e full payment of the main	tenance fee(s) and any	necessary surc	harge is enclosed	ı
Account No. The Director is hareby authorized to charge any deficiency in the payment of the required (ee(s) or credit any overpayment to Depodit Account No. 18-1000 Information required by 37 CFR 1.385(c) (columns 1 & 2). Information requested under 37 CFR 1.386(d) (columns 3, 4, 8, 5) Bam Patent Number* Payment U.S. Application Number* Registration Number* Number* Registration Number* Numbe	2. 🗖 Pay	ment by credit card.	Form PTO-2038 is enclose	od, 1				
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Subtolate: Columns 3 & 4 980.00 130.00 additional sheets attached for Insting additional sheets attached for Insting additional patents. WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on Form PTO-2038. Respectfully submitted,** Customer's Signature: Customer's Signature: Customer's Registration Number, if applicable: 31,872 Telephone: 847-770-6000 Fax: 847-770-6006 Registration Number, if applicable: 31,872 Telephone: 1010. All correspondence will be forwarded to the "Fee Address" or to the "Correspondence Address" if no "Fee Address" has been provided. See 37 CFR 1.356. Syment of small entity fee is appropriate if small entity status still exists, see 37 CFR 1.27(g). To establish small entity tatus of the Correspondence status from small to large emity, a written assertion is required. See 37 CFR 1.27 and 1.35(b).		Column 1			Column'4	3.5 yrs	7.5 утэ	11.5 yrs
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This collection of information is required by 37 CFR 1.386. This information is required to obtain or relating the public which is to the (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is assimated to take 5 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will very depending on the individual case. Any comments on the amount of time you require to complete this form end/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Tradement Office, U.S. Department of Commence, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS, SEND TO: United States Patent and Trademark Office, PO Box 979070, St. Louis, MO 63197-9000.

If you need existence in completing the form, call 1-800-PTO-9189 and select option 2.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED

JUN 1.1 2010/

Inventor:

Steven R. Bailey, et al.

Attorney Docket: 6051-009

Patent No.:

7,018,408

Application No.: 10/720,932

OFFICE OF PETITIONS

Issued:

03/28/2006

Examiner:

A. Stewart

For:

ENDOLUMINAL CARDIAC AND VENOUS VALVE PROSTHESES AND METHODS OF

MANUFACTURE AND DELIVERY THEREOF

Maintenance Fee Office Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

COMMUNICATION

Dear Sir:

This letter addresses the mistaken lapse of the above-captioned patent due to alleged nonpayment of the 3.5-year maintenance fee that was due no later than March 29, 2010. In fact, we did timely pay the maintenance fee. The following discussion sets forth how this firm followed all pertinent regulations in making the requisite 3.5-year maintenance payment. Accordingly, we request the Office reinstate the above-captioned patent as the fully paid-up, current patent that it is.

On March 29, 2010, this firm deposited into a U.S. postal box an envelope containing Maintenance Fee Transmittal Form PTO/SB/45 and a check for \$1,110.00, copies of which are attached. The sum of the check included \$980.00 for the payment of the 3.5-year maintenance fee (per 37 CFR §1.20(e)) plus \$130.00 for the payment of the surcharge for late payment within six months of \$130.00 (per 37 CFR §1.20(h)). The envelope had affixed to it sufficient postage for first class mail with the U.S. Postal Service.

As can readily be observed on the attached copies, both the Maintenance Fee Transmittal Form and the check clearly show the date of mailing: March 29, 2010. Included in the Maintenance Fee Transmittal Form is a certificate of correspondence, signed and dated March

Certificate of Facsimile

I certify that this correspondence (along with any documents referenced as being included herewith) is being facsimile transmitted on June 8, 2010 to the United States Postal Service. Maintenance Pee Office (Fax No. (571) 273-6500)

Lori Dunham

Patent No. 7,018,408 6/8/2010 Attorney Docket No. 6051-009

29, 2010, and a recital that "a check for the amount of \$1,110.00 for the full payment of the maintenance fee and any necessary surcharge is enclosed."

March 29, 2010 was the last day of the 6-month grace period for paying the maintenance fee provided by 37 CFR §1.362(e). The Issue Date for the patent is March 28, 2006, making the four-year anniversary March 28, 2010. However, as March 28, 2010 was a Sunday, the final day was the following business day at the USPTO, i.e., March 29, 2010. Therefore, our mailing on that day was timely.

If necessary, we can and will provide an affidavit relating to our procedures and the fact that the aforementioned payment was timely deposited into a U.S. postal box. We have no way of knowing how, why, or where the payment was lost, but unfortunately such an event cannot be considered impossible as it is well-known that individual pieces of mail are lost regularly.

According to 37 CFR §1.8(a)(i)(1)(A) and §1.8(a)(ii), correspondence required to be filed in the USPTO within a set period of time will be considered timely filed if the correspondence is addressed as set out in 37 CFR §1.1(a), include a signed and dated mailing certificate, and is deposited with the U.S. Postal Service with sufficient postage for first class mail. Importantly, the code section does not require the U.S. Postal Office to provide any proof of receipt. As noted above, this firm complied with the prescribed procedures. In light of these facts, the correspondence and payment sent on March 29, 2010 meets the requirements of 37 CFR§ 1.8(a) and should be considered timely filed in spite of its non-receipt by the USPTO.

Our bank records are consistent with a lost check: Check #8743 for \$1,110.00 has not been presented for payment. Accordingly, the Director is hereby authorized to replace the funds represented by the lost check by deducting \$1,110.00 from the Deposit Account No. 18-2000 of Rosenbaum & Silvert, P.C., of which the undersigned is an authorized signatory.

In view of the above, the Commissioner is hereby requested to reinstate U.S. Patent 7,018,408 to unlapsed and unexpired standing because the 3.5-year maintenance fee and 6-month grace period surcharge were timely submitted in accordance with established procedures.

Jun. 8. 2010 8:21PM Rosenbaum & Silvert, P.C.

No. 4040 P. 4

Patent No. 7,018,408 6/8/2010 Attorney Docket No. 6051-009

If there are any questions regarding this matter, please do not hesitate to contact me.

Respectfully submitted.

Donald J. Silvert, Ph.D. Registration No. 37,552

June 8, 2010

ROSENBAUM & SILVERT, P.C. 1480 Techny Road Northbrook, IL 60062 Tel. 847-770-6000 Fax. 847-770-6006

E-mail: dsilvert@rosenbaumsilvert.com